

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

KENNETH ROSHAUN REID  
(Plaintiff)

VS.

UNITED STATES OF AMERICA  
or UNITED STATES (Defendant)

FILED  
SCRANTON

JAN 11 2018

Per

AMC  
DEPUTY CLERK

" COMPLAINT PURSUANT (FTCA-LAWSUIT)  
title 28 USC § 1346(b) and 2671, 2675(a)

Plaintiff Kenneth Roshawn Reid now moves to your honorable  
Court seeking full relief in monetary damages for the  
\$40,000 in punitive, compensatory damages for the negligence,  
Constitutional violations, food poisoning by USP Lewisburg staff against  
him. Plaintiff has already Exhausted available remedies through  
his Form 95 Completion on the issue.  
Plaintiff meets the 2 year deadline to file his FTCA-LAWSUIT  
under the 8th Amendment

An administrative claim has been presented on a Form 95 to the  
Regional office, but was denied. But they offered a settlement  
of \$100.00 dollars but Plaintiff declined.

①

Plaintiff has shown that the evidence demonstrates that he suffered from food poisoning, which is a medical condition that can be established by expert testimony. See *Perdieu v. Blackstone Family Practice Center, Inc* 264 Va 408 568 SE 2d 203 211 (Va 2002)

Plaintiff has established that by a reasonable degree of medical probability, that he suffered the medical condition he complains of which is "Salmonella Poisoning". Which a may major amount of the SMU or USP Lewisburg population contracted or caught the poisoning and numerous officers also had it.

The defendants conceded to the fact that they were responsible for the food poisoning of plaintiff Kenneth Reid and other inmates and offered plaintiff a settlement of \$100.00 dollars, but plaintiff refused it and asked defendants to reconsider his \$40,000 dollar asking price or go to trial. Plaintiff will except settlement if a reasonable payment is offered or go to trial. Plaintiff has over 30 witnesses to the incident and more it need be presented including staff members.

The present case that Plaintiff presents is similar to the Case of Salmonella poisoning at USP Canaan which sickened hundreds of inmates the exact same thing occurred at USP Lewisburg.

②

The Salmonella food poisoning at USP Lewisburg was a widespread outbreak where hundreds of inmates and staff got sick. USP Lewisburg also suspended its food service operation immediately after the outbreak in order to remedy the food-borne contagion in the prison. The essentially undisputed evidence further reveals that the defendant prison supervisors reinstated this food service after about two weeks of serving inmates bag lunches which were ordered to replace any use of the Kitchen's contaminated supplies.

The issue as to whether there is a genuine issue for dispute is clear. There clearly was a suspension of the Kitchen function, Kitchen staff and a decontamination of all Kitchen equipment area for weeks and a guaranteed cleaning of inmate cells in A, B, C, D, E, F, X, units at USP Lewisburg and several hundreds of inmates hospitalized at the institutional medical center area and staff wearing protection masks on their faces, hands, body to keep them from contaminating themselves.

③ On \_\_\_\_\_ USP Lewisburg was placed on lockdown while the prison officials and Health Services department address the outbreak of what appeared to be widespread food poisoning. The outside hospital advised officials at USP Lewisburg that the test results returned positive for Salmonella virus even Dr's address all inmates of this epidemic diagnosis (Dr. Edinger)

Plaintiff's

Pro-Se Complaint should be construed liberally under  
Haines v. Kerner 404 US 519 30 LEd 2d 652

The United States Supreme Court holds allegations of a  
pro-se complaint to less stringent standards than formal  
pleadings drafted by Lawyers

Plaintiff Kenneth Roshaun Reids Due Process was violated  
because medical staff's actions of destroying his (stool sample)  
denied him the right he is entitled to which is an opportunity  
to offer proof (Haines v. Kerner 404 US 519)

The Court has jurisdiction under 28 USC § 1346 (b)

Plaintiff's case is similar to Legrand v. United States Dist Lexis  
119611 2016 Sept, 6 (2016)

Disposition by federal agency as prerequisite: evidence

28 USC § 2675(a)

Federal Tort claim Lawsuit

a) An action shall not be instituted upon a claim against the United States for money damages for injury or loss of property or personal injury or death caused by the negligent or wrongful act or omission of any employee of the Government while acting within the scope of his office or employment, unless the claimant shall have first presented the claim to the appropriate federal agency and his claim shall have been finally denied by the agency in writing and sent by certified or registered mail. The failure of an agency to make final disposition of a claim within six months after it is filed shall, at the option of the claimant any time thereafter, be deemed a final denial of the claim for purposes of this section. The provisions of this subsection shall not apply to such claims as may be asserted under the Federal Rules of Civil Procedure by third party Complaint, Cross-Claim, or Counter Claim.

## PARTIES INVOLVED

USP Lewisburg staff, Correctional officers  
FOOD SERVICE staff USP Lewisburg  
Medical staff USP Lewisburg

All under title of UNITED STATES FOR FTCA purposes

⑥

## CLAIMS

USP Lewisburg Food Service, medical staff

- 1) Food poisoning by Food Service staff
- 2) Food-borne illness
- 3) Medical negligence - because medical staff destroyed Plaintiff Reide's stool sample test results in an effort to not be sued by Plaintiff. "Destruction of Exculpatory Evidence" proves negligence.
- 4) 8<sup>th</sup> Amendment violation



## § 15.2 The Federal Tort claims Act

The federal tort claims Act permits a federal prisoner to bring an action against the United States for injuries caused by the tortious acts of its employees. To the extent that the claim is subject to FTCA jurisdiction, sovereign immunity is waived. However, federal prisoners are not restricted to the FTCA redressing Constitutional violations by prison authorities. Remedies can be pursued under the BIVENS doctrine. Federal prison officials do not have absolute immunity from BIVENS actions under the FTCA. The FTCA is not an equally effective remedy as a BIVENS claim. FTCA damages remain recoverable only against the United States and not against individuals, and punitive damages are unavailable under the FTCA. A jury trial cannot be demanded; and the FTCA remedy depends on the law of the place where the act or omission occurred.



# Affidavit of Truth

on

Plaintiff suffered vomiting and abdominal pain, dizziness, Diarrhea, nausea for weeks, headaches and had to be given remedies for dehydration, given liquids. Plaintiff was given antibiotics for the stomach bacterial in his stomach and given metronidazole meds for the gastritis and gastroduodenitis condition. Plaintiff gave a stool sample along with 100 other inmates and the first couple of inmates all tested positive for Food poisoning (*Salimihella*) poisoning. So medical staff destroyed all the other stool samples in order to escape liability of being sued by plaintiff and other inmates which amounted to "destroying of Evidence" that had exculpatory value in an effort to escape liability. Staff protecting staff. Medical staff were protecting Food Service staff by destroying plaintiff's stool sample. When plaintiff wrote medical to report, ask what was the result of his stool sample the medical staff wrote back that his stool sample had been "canceled". Several inmates who got tested and gave stool samples at the same time that plaintiff Reid did tested positive for *Salimihella* food poisoning.

⑨

I swear under the Penalty of perjury that the foregoing is true and correct to the best of my knowledge under the laws of the United States on title 28 USC § 1746 Kenneth K. Reid

## FACTS

- 1) Plaintiff gave a stool sample to Medical staff
- 2) Plaintiff was placed in a quarantine cell, moved from D-unit to X-unit.
- 3) Plaintiff had diarrhea, stomach pain, vomiting, for days
- 4) Food service later decontaminated the food preparation and service areas
- 5) The entire Kitchen was sanitized, the entire institution was sanitized following the wide spread complaints of food poisoning.
- 6) Several staff members also contacted the Food-borne illness and had to be sent home.
- 7) Medical staff canceled all stool samples after numerous amounts of inmates tested positive for "Salmonella" food poisoning  
"Salmonella Food Poisoning"

(Affidavit)

From plaintiff's symptoms suggest that plaintiff suffered from Salmonella Food Poisoning. All of or most of the inmates at USP Lewisburg suffered from Salmonella enteridis enteritidis after a Lunch meal at USP Lewisburg. See *Koster v. Scotch Assoc.*, 273 NJ Super 102, 640 A2d 1225 (N.J. Super Ct Law Div 1993) plaintiff's argument should prevail under the ~~strict~~ rule of strict liability because plaintiff only ate at USP Lewisburg at the time of the food poisoning incident.

The food handling practices at USP Lewisburg were inadequate therefore USP Lewisburg is strictly liable for injuries suffered by Plaintiff. The incubation period and the duration of the symptoms strongly suggest that plaintiff and other inmates suffered from food poisoning from Salmonella. Plaintiff's symptoms very well could have been *Shingella Flexneri* that can be contacted from toilets, by touch of hand, or any object touched by hand. The cause of plaintiff's illness was food that he consumed at USP Lewisburg that was prepared by food service staff and was the only food that plaintiff had access to being Locked down 23 hours a day in the same cell in the SMU Program for 2 1/2 years. The evidence of food poisoning is undisputed here in plaintiff's case. The record of the numerous amounts of inmates infected at the time with a food born illness will establish this factually occurred to multiple inmates and Plaintiff.

On \_\_\_\_\_, Plaintiff Kenneth Kashawn Reid was food poisoned by food service staff at USP Lewisburg from one of the meals he ate along with the entire inmate population. All of the inmates did not suffer from headaches, diarrhea, vomiting, gastritis, nausea for weeks as Plaintiff and his cellmate Zavion Canada did, but a lot of other inmates suffered the same illness. Plaintiff was given a stool sample test which tested positive for "Salmonella Poisoning" but the medical staff destroyed the stool sample evidence which amounts to Tampering with Exculpatory evidence that had Exculpatory Value that medical didn't want the plaintiff to have in his defense against the United States and its defendants. Medical staff were eager to not get sued, that's why they destroyed the evidence (Stool samples) because almost the entire institution was getting sick, even some staff members got sick and had to go home for days to recover. Plaintiff also suffered from abdominal cramps, bloating, chills, aches, eye irritation, Medical only gave plaintiff Gatorade and Antibiotic Medication.

## Certificate of Service

I swear under the penalty of perjury that the foregoing is true and correct to the best of my knowledge under the laws of the United States and title 28 USC § 1746 signed: Kenneth R. Reid

USP BIG SANDY

P.O. BOX 2068

INEZ, KY 41224

## Relief Sought

To get \$40,000 dollars in Punitive damages, \$20,000 \$20,000  
Compensatory damages for food poisoning.

Will except Settlement out of court if offered  
the offer has to start at 20,000 and move upward



**U.S. Department of Justice**

**Federal Bureau of Prisons**

*Northeast Regional Office*

Via Certified and Return Receipt Mail

U.S. Custom House-7th Floor  
2nd & Chestnut Streets  
Philadelphia, PA. 19106

December 13, 2017

Kenneth Reid, Reg. No. 11485-171  
USP Big Sandy  
P.O. Box 2068  
Inez, KY 41224

RE: Reconsideration  
Administrative Claim No. TRT-NER-2017-01277

Dear Mr. Reid:

Your request for reconsideration of Administrative Claim No. TRT-NER-2017-01277 properly received on June 16, 2017, has been considered for settlement as provided by the Federal Tort Claims Act (FTCA), 28 U.S.C. §2672, under authority delegated to me by 28 C.F.R. §543.30. Damages are sought in the amount of \$2,500.00 based on a personal injury claim. Specifically, you allege you became ill after being served contaminated food at USP Lewisburg. You claim you continue to suffer physical ailments and request an increased offer of settlement.

After a careful review of the reconsideration, I have decided to offer an increased settlement of \$200.00. This amount is based upon our assessment of the relative value of your claim, based on your symptoms and treatment as verified in your medical record, and other factors. This is neither an admission nor denial of government liability.

If this amount is acceptable for settlement, please complete the highlighted portions and sign the enclosed voucher and promptly return it to this office for processing. If the offer is unacceptable, suit may be brought against the United States in the appropriate United States District Court within six (6) months of the date of this letter.

Sincerely,

A handwritten signature in dark ink, appearing to read "J. Horikawa", is written over the typed name.

Joyce M. Horikawa  
Acting Regional Counsel

cc: David J. Ebbert, Warden, USP Lewisburg





KENNETH ROSHAUN REID  
Resister # 11485-171  
UNITED STATES PENITENTIARY, BIG SANDY  
PO BOX 2068  
Inez, KY 41224

RECEIVED  
SCHANTON

JAN 15 2018

PER [signature]  
DEPUTY CLERK